

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Kleider et al.)
)
For:	Method of Multiple-Carrier)
	Communication within a)
	Noncontiguous Wideband)
	Spectrum and Apparatus therefor)
)
Serial No.:	09/690,993)
)
Filed:	October 17, 2000)
)
Examiner:	Wang, T.)
)
Art Unit:	2611)
)

Pre-Appeal Brief Request for Review

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby request review of the final rejection in the above-identified application. No amendments are being filed with this request. The present request is being filed in conjunction with a notice of appeal. The review is being requested for the reasons stated below, which frames the issue to be considered as part of the pre-appeal review process.

The Examiner has made the rejection of claims 12 and 13, final. More specifically, the Examiner has rejected claims 12 and 13 under 35 USC §103(a) as being unpatentable over Polly et al., US Patent No. 6,363,109, in view of Yamano et al., US Patent No. 6,445,731. However contrary to the Examiner's assertions, the cited references being relied upon by the Examiner fail to make known or obvious each and every feature of the claims. More specifically, contrary to the assertions of the Examiner, the various combinations of references, fails to teach or suggest "wherein said transmitting activity transmits said OFDM data over the plurality of subchannels, from which more than one user channel is formed and concurrently supported" (claim 12).

In attempting to suggest, that the same is known or obvious by the combination of cited references, the Examiner acknowledges that Polly et al., '109, minimally fails to teach or suggest more than one user channel. However, contrary to the Examiner's assertions, Yamano et al., '731, fails to account for the acknowledged deficiency. In suggesting that Yamano et al., '731, makes known or obvious the same, the Examiner refers to FIG. 7; col. 5, lines 12-25; and col. 19, lines 1-15. The portion of the specification corresponding to col. 5, lines 12-25 relates to the multiplexing of multiple transmitters to a limited number of receiver circuits, while the portion of the specification corresponding to FIG. 7, and col. 19, lines 1-15, correspond to a multi-drop operation. However, neither of these two examples make known or obvious the corresponding claimed feature, where more than one user channel is formed from the plurality of subchannels and are concurrently supported.

With regards to the portion of the specification corresponding to col. 5, lines 12-25; there is no concurrent support of more than one user channel. In fact each remote transmitter circuit is expressly identified as being coupled to separate telephone lines (col. 5, lines 13-14), where they are separately multiplexed and correspondingly coupled to any particular receiver circuits (see col.5, lines 16-18 and col. 5, lines 32-33). In essence, each transmitter is separately received at a switch, which selectively separately couples the transmitter circuit to a receiver circuit. In other words, there is a single communication path/channel that is separately used by each one of multiple transmitter circuits, as opposed to the concurrent support for the more than one user channels provided in the claim.

With regards to the multi-drop example cited by the Examiner, the reference similarly fails to provide for the claimed concurrent support, such that the reference fails to make known more than a single (i.e. same) communication (user) channel, which is then shared by multiple modems. In the case of the multi-drop embodiment, the reference provides for an arbitration "such that only one modem is transmitting analog signal bursts to the telephone line at any given time" (see col. 5, lines 42-45). In essence, the reference teaches away from the formation and concurrent support of more than one user channels, and therefore fails to make known or obvious each and every feature of the claims.

Because the combination of references being relied upon fail to make known each and every feature of the claims, either alone, or taken together, than the rejection falls short of meeting the minimal requirements for such a rejection. As such, the rejection should be

withdrawn as being improper. The above noted distinctions is similarly applicable to claim 13, which depend from independent claim 12.

In view of the above remarks, the applicants would respectfully request that the Examiner's final rejection of the claims be withdrawn, as failing to make known or obvious each and every feature of the claims.

Respectfully submitted,

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